IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No.903 (M/B) of 2006

Sunder Bhoomi Security & Management
Services 11/20 Ashirwad Enchalve,
Near Ballupur Chowk, Dehradun, Uttaranchal
Through its M.D. Col. S.S. Kanwar (Retd)

.... Petitioner

Vs

1. Uttaranchal Jal Vidyut Nigam Ltd., Dehradun, through its Managing Director
2. General Manager (SHP) Uttaranchal Jal Vidyut Nigam Ltd., Dehradun
3. The Manager (A&S)Uttaranchal Jal Vidyut Nigam Ltd. UJJAWAL Dehradun Uttaranchal

.....Respondents

Sri D.S. Mehta, Advocate, learned counsel for the petitioner.
Sri Gopal Narain, learned counsel for the respondents.

Dated: - August 1, 2006

Coram: Hon'ble P.C.Verma,J
Hon'ble B.S. Verma,J

This is a second writ petition filed by the petitioner challenging the notice of termination of contract-dated 30.6.2006 issued by Respondent No.1.

The earlier writ petition was filed by the petitioner wherein the petitioner himself made a prayer to get the matter referred to the arbitrator so that the dispute may be settled. Learned counsel for the petitioner withdrew the writ petition for getting the dispute referred and to get the same decided by the Arbitrator. The proceedings before the Arbitrator are still pending.

In this second writ petition, the prayer No.1 is the same but prayer Nos.2 and 3 have been changed just to mislead the Court. The petitioner was well aware that he had withdrawn his writ petition to get the matter

referred to the Arbitrator and it has been stated in Para-2 of the writ petition also, but knowingly this fact that the matter is subjudiced before the Arbitrator, this second writ petition has been filed. The order passed in the earlier writ petition is as under:-

> *"Mr. D.S. Mehta, Advocate on behalf of Mr. M.C. Pant, Advocate for the petitioner.*
> *Mr. Gopal Narain, Advocate for the respondents.*
> *2. Mr. D.S. Mehta, the learned counsel for the petitioner, in view of the fact that an Arbitrator has been appointed by the respondents on 14.7.2006, seeks permission to withdraw the writ petition with the liberty of filing another writ petition, if the future developments so warrant.*
> *3. Permission granted.*
> *4. With the above liberty, the writ petition is dismissed as withdrawn.*
> *5. With the above order, CLMA No.825 of 2006 also stands dismissed as withdrawn."*

The permission was granted to file another writ petition in relation to future development. If some cause of action arises during the pendency of the arbitration proceedings, only then the second writ petition could have been filed. The permission to file second writ petition on the same relief was not granted.

In view of the above, we are not inclined to entertain the writ petition. The writ petition is devoid of merit and is hereby dismissed. No order as to costs.

(B.S. Verma, J.) **(P.C. Verma, J.)**

Rajeev Dang